



TO: Presidential Commission on Election Administration
FROM: Lori Shellenberger, Director
American Civil Liberties Union of California Voting Rights Project
RE: Online Voter Registration and the National Voter Registration Act
DATE: August 13, 2013

Over the past two years, the **ACLU of California Voting Rights Project** (ACLU) has worked to improve implementation of Section 7 of the National Voter Registration Act (NVRA) at the state and local level. Our goal is to create a cost-efficient, statewide, sustainable voter registration infrastructure that is available to every eligible California voter when they interact with government. With support from the **Irvine Foundation** and the **Future of California Elections**, the ACLU has utilized a collaborative approach to effective implementation, working closely with state and national voting rights advocates, disability rights advocates, local elections officials, and the Secretary of State's office to ensure full compliance with the NVRA's mandate of expanding the availability of voter registration services.

A modernized and comprehensive NVRA implementation plan can play a critical role in improving the administration of elections and reducing obstacles to participation by:

- Ensuring that government offices such as Armed Forces recruitment offices, tax offices, colleges and universities, public assistance agencies, and offices serving people with disabilities provide voter registration opportunities and offer assistance with the voter registration process;¹
- Improving the accuracy of voting rolls by reminding voters of the need to re-register when they move and providing them with the means to re-register every time they interact with a government agency. Notably, the majority of voter registrations at California NVRA offices are actually updates, rather than new voter registrations;²
- Encouraging voters to register and to update their registrations year-round, easing the rush to register close to the deadline, and allowing county elections officials to focus resources on preparing for Election Day;³
- Connecting eligible voters to California's new online voter registration system in a streamlined fashion that pre-populates the online voter registration form with information consumers have already provided to an agency, creating a paperless registration process that is faster, easier, more cost-effective, and increases the likelihood that consumers will complete the voter registration process;⁴ and
- Leveraging the new ways Californians are interacting with government by designating additional agencies as voter registration agencies under the NVRA, including the state's newly created Health Benefit Exchange, expected to reach millions of Californians through a consumer-friendly online portal.⁵

Full and modernized NVRA compliance will yield long-term election administration cost savings for states and counties, increase the accuracy of voter rolls by allowing people to update their voter registration when they move and do so through electronic processes, decrease provisional voting and lines on Election Day, and ensure the integrity of our elections by expanding opportunities for participation for all eligible voters.



The NVRA

The NVRA was signed into law in 1993. Section 7 of the law aimed to reduce barriers to and expand opportunities for voter registration by requiring public assistance offices and state-funded programs primarily engaged in providing services to persons with disabilities to offer voter registration services to applicants and clients at every agency and office in each state.⁶ Section 7 also requires voter registration services be provided at Armed Forces recruitment offices and requires states to designate other offices as voter registration agencies. These offices are collectively referred to as voter registration agencies.⁷

Voter registration services are provided to consumers at the time of application for services, renewal of benefits, and upon notification of a change of address.⁸ Voter registration services include providing:

- A document that asks if the consumer would like to register to vote that provides certain disclosures, known as a voter preference form;
- A voter registration card; and
- Assistance with filling out the forms.⁹

The impact of the law was at its highest when the NVRA was first implemented in 1995-96, when registrations at public assistance agencies reached 2.6 million.¹⁰ Since then, voter registrations have steadily declined, reaching a low a decade later in 2005-06 of just over a half million, down 80% from 1995-96.¹¹

The NVRA in California

The NVRA was first implemented in California in mid-1995, after the state was ordered to do so by a federal district court.¹² Voter registrations at public assistance agencies reached their peak in the 1995-96 election cycle,¹³ and fell to an all-time low of just 16,622 in 2007-08, an 87% decline.¹⁴ In response to the decline in registrations, in mid-2009, voting rights advocates at *Demos* and *Project Vote* sent the Secretary of State a notice that the state was in violation of the NVRA.¹⁵ Their investigation in six counties revealed widespread non-compliance with the law.¹⁶

The ACLU NVRA Implementation Project

Implementation of the NVRA in San Diego, where the ACLU of California Voting Rights Project is based, followed a similar trajectory. Voter registrations reached a low in 2005-06, down 93% from their peak in 1995-96.¹⁷ In 2011, San Diego County public assistance agencies averaged just 48 voter registrations per month despite record numbers of public assistance applications.¹⁸

In the fall of 2011, the ACLU began its **NVRA Implementation Project** to work with local public agencies and county elections officials to improve the implementation of the NVRA. This was accomplished through collaboration with voter registration agencies, the development of best practices, and by providing support to voter registration agencies and state and county elections officials with trainings and materials.

Our examination of NVRA practices in San Diego revealed that basic NVRA protocols at the county elections office were lacking. For example:

- The San Diego County Registrar of Voters (Registrar) was not consistently sending voter registration cards to voter registration agencies or tracking the ones that were returned.
- There was no one designated as an NVRA coordinator at the office, and there was very little, if any, communication with the voter registration agencies.
- The Registrar did not know which offices were voter registration agencies, or where they were located.

From our meetings with local voter registration agencies, some other themes emerged:

- *Widespread unawareness of the NVRA and its requirements.* Many voter registration agencies were hearing about the NVRA and its requirements for the first time.
- *Lack of support from state offices.* Most local offices received no policies or guidance from their state offices. In the instances where policies did exist, they often had not been updated in years.
- *Confusion over responsibilities.* Because of ambiguity in the language of the NVRA itself, it was unclear who was ultimately responsible for coordination and implementation locally and at the state level.
- *No one designated as responsible for NVRA duties.* Most voter registration agencies had no one specifically responsible for NVRA compliance.
- *No coordination with local elections officials.* Voter registration agencies had no meaningful contact with local elections officials.
- *Lack of practical information.* Voter registration agencies did not have access to training materials that suited their needs.
- *Competing priorities.* Many voter registration agencies did not see voter registration as part of their mission or as a priority.
- *Unfamiliarity with language requirements.* Section 203 of the federal Voting Rights Act requires San Diego counties to provide voter registration materials in Spanish, Vietnamese, Chinese, and Tagalog, but no agencies were familiar with these requirements.

Our meetings with local offices allowed us to develop and share best practices, such as designating coordinators, providing trainings to employees, and establishing contacts between the county elections office and voter registration agencies. As some of the best practices began to take hold in San Diego, the results were dramatic. *In the seven months leading up to the 2012 election, voter registration agencies registered more voters than in the previous 12 years combined.*¹⁹

State Legislation to Improve NVRA Implementation and Compliance

In July of 2012, the ACLU sponsored legislation to codify many of the practices we were developing locally, to clarify NVRA responsibilities from the local to the state level, and to modernize voter registration services at NVRA agencies in California. The bill (SB 35, Padilla) was signed into law in September of 2012, and took effect in January 2013.²⁰ Key provisions include:

Accountability

To address the lack of accountability and confusion over the roles of different agencies under the NVRA, SB 35 made several important reforms:

- **Voter registration agencies** are responsible for contacting county elections officials and notifying them of all of their sites in the county, and for requesting voter registration cards as needed.²¹
- **County elections officials** are responsible for sending voter registration cards to voter registration agencies, providing trainings when requested, and for tracking voter registration forms returned from each voter registration agency office or site.²²
- **The Secretary of State's office** is responsible for coordinating the implementation of the NVRA across the state, and for publishing registration data from counties on its website.²³

By mapping out these responsibilities and creating specific tracking and reporting responsibilities, the state will soon have reports online from each county that show **every voter registration office** in that county and **how many voters were registered** at each office.²⁴ To implement this system, the ACLU has worked closely with county elections officials, voter registration agencies, and the Secretary of State to create more efficient ways to communicate, and to collect and report information. For example, in Orange County the Registrar of Voters created an online ordering form for voter registration agencies to order voter registration cards (*see Appendix A*).²⁵ This allows the Registrar to efficiently take orders from voter registration agencies and track the cards from each office.

Modernization

A major reform included in SB 35 was the requirement that NVRA agencies incorporate California's new online voter registration tool into all online NVRA transactions.²⁶ In California, NVRA offices with online applications include:

- Medi-Cal (California's Medicaid program);²⁷
- CalFresh (California's Supplemental Nutrition Assistance Program);
- CalWORKs (California's Temporary Assistance for Needy Families program);
- Department of Rehabilitation, Vocational Services; and
- The Board of Equalization.

The ACLU worked closely with state agencies, advocates for public assistance recipients and people with disabilities, the Secretary of State's office, *Rock the Vote* and experts in website user-experience to develop best practices for incorporation of the voter registration question and the link to online registration into existing online applications at these offices. Today, millions of Californians applying for services at any of these offices are asked whether they would like to register to vote or update their voter registration and are then given a link to online voter registration. (*See Appendices B and C* for examples of the online voter registration question and link to online registration at two NVRA agencies.)

Best Practices

SB 35 codified many of the best practices that had been developed locally, or that were recommended by national organizations or the Secretary of State, such as requiring:

- The appointment of NVRA coordinators at the Secretary of State's office, voter registration agencies, and county elections offices.²⁸
- Annual trainings for frontline employees at each voter registration agency.²⁹
- Voter registration materials be made available in Section 203 languages at every agency.³⁰
- Voter registration cards to be given to all consumers unless they indicate they do not want to register on their voter preference form.³¹

The Future in California: Next Phase of Modernization

In the next year we expect to see further reforms to modernize the implementation of the NVRA and to expand the opportunity to register to vote through interactions with government agencies.

Designating the Health Benefit Exchange

The Affordable Care Act creates new subsidized health care markets across the country, called health benefit exchanges, which will be enrolling millions of people into health care beginning October 1, 2013. The primary tool for applying to exchanges will be through new online portals.³²

To take advantage of this new online application, SB 35 requires California's new health benefit exchange, called Covered California, to offer online applicants the opportunity to register to vote.³³ In May of 2013, the Secretary of State went a step further by designating Covered California as a voter registration agency under the NVRA.³⁴ This designation requires that Covered California offer consumers the opportunity to register to vote, whether online or in person. The ACLU has been working with Future of California Elections partners, Covered California, and the Secretary of State to ensure Covered California reaches full compliance when it launches. The ACLU, in collaboration with *Demos* and *Project Vote*, developed a National HBEX Toolkit.³⁵

Incorporating an Application Programming Interface (API)

SB 35 encouraged voter registration agencies with online applications to use API tools, once available, to pre-populate the online voter registration form with information already provided to the agency.³⁶ *Rock the Vote* is currently working with the Secretary of State's office to develop an API that will allow the state's online registration system to accept information from NVRA agencies and other third parties. This tool will facilitate and simplify the registration process, improve the completion rate, and increase the accuracy of voter information for elections officials.

Translating Online Voter Registration

When California's online voter registration tool was launched, it was released in English and Spanish only. However, certain counties in the state are covered by up to eight additional Asian languages under Section 203 of the Voting Rights Act. These languages represent the preferred language for approximately one million eligible California voters.³⁷ SB 35 required the Secretary of State to translate the state's online voter registration system into the Section 203 languages that counties are required to offer.³⁸ Those translations are projected to go live in early 2014.

Designating Additional State Agencies

Early versions of SB 35 included provisions to add additional state offices as voter registration agencies in order to bring voter registration opportunities to even more Californians interacting with their government. While these revisions were ultimately removed from the final version of the bill due to cost concerns, the California Bureau of State Audits recently recommended that the state designate more agencies, such as California's unemployment insurance program, and more city and county government offices.³⁹

Tracking Online Voter Registrations

Currently, voter registrations that originate from a state agency website are not tracked by the Secretary of State. Therefore, an opportunity is missed to collect important data that can be used to further refine the protocols at NVRA agencies. The Secretary of State has committed to creating individual portals for NVRA agencies to link to beginning in early 2014 to ensure that this data is collected.

What Can Be Done at the Federal Level

Federal offices can play an important role in supporting local implementation of the NVRA.

Department of Justice (DOJ) Guidance and Enforcement

DOJ is responsible for enforcing the NVRA.⁴⁰ In 2010, DOJ released NVRA guidelines in the form of an FAQ.⁴¹ However, additional clarity is needed as a great deal of ambiguity and confusion about the NVRA's requirements remain. DOJ should consider providing expanded guidelines and additional information on NVRA best practices on its website.

Further, DOJ could increase its enforcement of Section 7 of the NVRA, as compliance is still lagging in most states. Over the last five years, DOJ brought two cases and reached two settlements to enforce Section 7, but otherwise left enforcement to private voting rights organizations.⁴² DOJ intervention in states where agencies are clearly ignoring their NVRA responsibilities could yield immediate results. Although litigation is an option, DOJ should also explore creative ways to engage states and share best practices or work to develop NVRA implementation plans that are tailored to specific state needs and deficits.

Finally, DOJ should provide guidance to states with state-based health benefit exchanges, which should be designated as voter registration agencies under Section 7 of the NVRA. Covered California has raced to implement its NVRA procedures because it was only designated as an NVRA agency in May 2013. Other states will miss the initial wave of applicants because of the lack of direction from DOJ and their failure to enforce NVRA compliance at state based exchanges.

U.S. Elections Assistance Commission (EAC) Clearinghouse and Data Analysis


The EAC is required to produce a biennial report assessing the impact of the NVRA on elections, and to make recommendations on improving federal and state election procedures.⁴³ The EAC is also required to provide information to states on their responsibilities under the NVRA, and to serve as a national clearinghouse on election information.⁴⁴ The EAC produces the biennial report based on a survey of state elections officials. The resulting report's data on voter registrations at NVRA offices is inconsistent, incomplete, and largely not helpful as a resource for state comparisons. The report also no longer includes recommendations. Finally, the EAC website does not serve as a clearinghouse of information on Section 7 best practices. The EAC can more effectively support states by:

- Working with states to collect and report better voter registration data. The data can then be used by states to more effectively evaluate NVRA compliance and to look for opportunities for improvement;
- Studying the implementation of the NVRA in various states, including practical information such as which agencies have been designated, who has the authority to designate agencies, who is responsible for NVRA implementation, and recommendations on best practices; and
- Serving as a clearinghouse for research on NVRA best practices, sample policies and procedures, and modernization opportunities.

Federal Benefits Programs and the NVRA

All of the public assistance agencies and programs serving people with disabilities receive federal funding. Their federal counterparts should issue periodic notices reminding state agencies of their NVRA responsibilities and giving them guidance on implementation and best practices. Federal programs could also periodically evaluate state compliance.

Appendix A NVRA Voter Registration Order Form, Orange County Registrar of Voters

**ORANGE COUNTY
REGISTRAR OF VOTERS**

English | 中文 | 한국어 | Español | Tiếng Việt

Registration | Voting | Results | Data | Media | Community | Volunteer | About

Home > Registration > NVRA Registration Order Form

Registration Links

- Voter Registration Info
- Register to Vote
- Keeping Your Registration Up-to-Date
- Verify Your Voter Registration
- Confirm Your Voter Registration
- Request Certified Copy of Voter Registration
- Military and Overseas Voter Registration
- Confidential Voter Registration
- Voter Registration Basics
- First Time Voters
- View Current Voter Registration Data
- Purchase Voter Registration Data
- Maintaining an Accurate Voter List
- Assistance
- NVRA Registration Order form**
 - National Voter Registration Act Information

NVRA Voter Registration Order Form

Full name:

Email:

Address:

City:

Zip:

Representing (Name of Organization Distributing Cards):

Address (Organization Distributing Cards):

City:

Zip:

Quantity of English Forms:

Quantity of English/Chinese Forms:

Quantity of English/Korean Forms:

Quantity of English/Spanish Forms:

Quantity of English/Vietnamese Forms:

Will you pick this up from our office, or would you like it mailed? (Orders of 250 or more require to be picked up at our office):

☐ I will pick it up at the Registrar's office

☐ Please mail it to me

Statement of Distribution Plans:

Are you an NVRA agency as defined in the National Voter Registration Act?:

☐ Yes

☐ No

Click here for more important information and printable documents for the National Voter Registration Act (NVRA).

ANY MAILING OF VOTER REGISTRATION CARDS MUST BE IN COMPLIANCE WITH ELECTIONS CODE § 2158(b)(3). The code is on the next page.

If you are collecting completed affidavits of registration, you must return completed affidavits of registration in your possession within three days, excluding Saturdays, Sundays and state holidays to the Registrar of Voters office. **(Elections Code § 18103)**

I DECLARE UNDER PENALTY OF PERJURY THAT I WILL TAKE REASONABLE STEPS TO ENSURE THAT:

(1) The person or persons distributing registration cards will give a registration card to any elector requesting one; and **(Elections Code §§ 2158(b)(2), 18107)**

(2) The persons distributing registration cards will be fully advised that state law imposes **PENALTIES OF IMPRISONMENT** for anyone who knowingly and willfully completes affidavits of registration for **NON-CITIZENS, NON-EXISTENT OR FICTITIOUS PERSONS, OR ANY INELIGIBLE ELECTOR**; and **(Elections Code §§ 18100, 18101, and 18102)**

(3) The voter registration cards will not be defaced or changed in any way; and **(Elections Code §§ 2162(b), §18106)**

(4) The voter registration cards will not be partially or fully filled in by anyone other than the registrant or the person assisting the registrant in completing the form; **(Elections Code § 2162(c))**

(5) Persons entrusted with distribution or subsequent collection of completed registration forms will be fully advised of the legal requirements outlined on the reverse side of this statement. **(Elections Code § 2159.5(a))**

Any person who knowingly misrepresents himself or herself as having helped register another to vote on a registration form is guilty of a misdemeanor. (Elections Code §§ 18108.1, 2159(b))

☐ I HAVE READ AND UNDERSTAND THE ABOVE ELECTIONS CODE SECTIONS. I HAVE RECEIVED, READ AND UNDERSTAND THE INSTRUCTIONS FOR COMPLETING REGISTRATION FORMS.

Submit

Office indicates that they are voter a registration agency

Appendix B Application at a public assistance agency

C4Yourself®
Access to Benefits. Simplified.

Home My C4Yourself Help Exit

Start Application People Job Income Expenses Property Other **Send Application**

Voter Registration

If you are not registered to vote where you live now, would you like to apply to register to vote here today?

Select One

NOTE: IF YOU DO NOT SELECT SOMETHING, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.

Important Notices

1. Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.
2. If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the voter registration form in private.
3. If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party preference or other political preference, you may file a complaint with the Secretary of State by calling toll-free (800)345-VOTE (8663) or you may write to: Secretary of State, 1500 - 11th Street, Sacramento, CA, 95814. For more information on elections and voting, please visit the Secretary of State's website at www.sos.ca.gov.

You can click the next button to go to the next page of the application.

Back Next

Consumer is asked if he or she would like to register to vote and provided with disclosures.

Consumer then completes and submits the application for benefits.

C4Yourself®
Access to Benefits. Simplified.

Home My C4Yourself Help Exit

Start Application People Job Income Expenses Property Other **Send Application**

Congratulations!

Print View Summary

Your application has been sent to the county office successfully. The county office will contact you. Please write down or print the following details.

| | |
|---------------|--|
| e-App number: | |
| e-App Date: | |

Here is the office your application was sent to:

HEALTH & HUMAN SERVICES - MAIN OFFICE
251 E WEBSTER ST
COLUSA, CA 95932
(530) 458-0250

The e-App number is important. You may need it if you contact the county office. It will help us pull up your application.

If you are eligible to benefits, they will be determined from your e-App date.

Verifications

The worker may ask you to give proof of some information. The list below is what the worker may need before we can approve your application.

- Identification
- Immigration Status
- Sponsored Noncitizen Information
- Residency
- SSN/Application for all Household Members
- Income (Earned, Unearned, or from self employment)
- Property/Assets
- Disability
- Utility Expenses
- Shelter Expenses
- Medical Expenses
- Child Support Obligations and Payments
- Pregnancy
- School Grants or Loans

Register to Vote

Clicking the link below will open a new window where you can complete an online voter registration form.

Register to VOTE

Consumer is offered a link to the Secretary of State's voter registration tool once the application is completed.

Appendix C Board of Equalization

The Board of Equalization administers a variety of sales and use taxes for the state of California. The Board's district offices were designated as voter registration agencies by Governor Pete Wilson in 1995. Today, most of the business done at district offices is completed at kiosks that have computers connected to the Board's website. Because of SB 35, the Board had to modify its application processes to include an electronic version of the voter preference form, and a link to online voter registration.

The screenshot shows a web browser window displaying the California State Voter Registration page. The page has a blue header with the "CA.GOV" logo and the text "California State Voter Registration". A central white box contains the question: "If you are not registered to vote where you live now, would you like to apply to register to vote today?". Below this question, a blue banner states "Registering is easy and takes only a few minutes!". Three blue buttons are provided for user selection: "No, I am already registered to vote.", "Yes, I would like to register to vote.", and "No, I do not want to register to vote / or I am not a California resident.". Below the buttons, a section titled "Important Notices" contains a single notice: "1. Applying or declining to register to vote will not affect the assistance that you will be provided by the Board of Equalization (BOE).". The left sidebar of the website shows navigation links for "FAQ | MAIN MENU" and a "Registration Status" section with a "Registration Id: 9900". The right sidebar displays the date "05/28/13" and the time "7:11:54 AM".

ENDNOTES

¹ Armed Forces recruitment offices, public assistance agencies, and state-funded programs primarily engaged in serving people with disabilities are mandatory NVRA agencies under 42 U.S.C. § 1973gg-5 (Section 7). In California, the Franchise Tax Board and Board of Equalization district offices were designated as voter registration agencies in 1994 under CA Executive Order W-98-94. Community colleges, state colleges, and universities have voter registration responsibilities under the Student Voter Registration Act (California Elections Code Section 2145 et seq). Other states have designated colleges and universities as voter registration agencies under Section 7 of the NVRA.

² U.S. Election Assistance Commission (June 2013), “The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2011-2012: A Report to the 113th Congress,” at http://www.eac.gov/assets/1/Documents/EAC_NVRA%20Report_lowres.pdf (retrieved August 23, 2013).

³ The Pew Center on the States (November 2010), “Upgrading Democracy: Improving America’s Elections by Modernizing States’ Voter Registration Systems,” at http://www.pewstates.org/uploadedFiles/PCS_Assets/2010/Upgrading_Democracy_report.pdf (retrieved August 23, 2013).

⁴ Rosenfeld, S. “Voter Registration Modernization and the NVRA: How Paperless Information Technologies Can Help States Better Implement the National Voter Registration Act,” (Project Vote, 2010), at <http://www.projectvote.org/images/publications/Policy%20Reports%20and%20Guides/Voter-Registration-Modernization-and-the-NVRA.pdf> (retrieved August 23, 2013).

⁵ On May 15, 2013, Secretary of State Debra Bowen designated California’s Health Benefit Exchange a voter registration agency pursuant to Section 7 of the NVRA.

⁶ 42 U.S.C. §§ 1973gg and 1973gg-5.

⁷ 42 U.S.C. § 1973gg-1.

⁸ 42 U.S.C. § 1973gg-5.

⁹ Id.

¹⁰ Federal Elections Commission (1997), “The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 1995-1996: A Report to the 105th Congress,” at <http://www.eac.gov/assets/1/AssetManager/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%201995-1996.pdf> (retrieved August 23, 2013).

¹¹ U.S. Election Assistance Commission (June 2007), “The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2005-2006: A Report to the 110th Congress,” at <http://www.eac.gov/assets/1/Page/NVRA%20Reports%20and%20Data%20Sets%202006-2005.pdf> (retrieved August 23, 2013).

¹² *Wilson v. U.S.*, 878 F. Supp. 1324 (N.D. Ca. 1995).

¹³ Federal Elections Commission, *supra* note 10.

¹⁴ U.S. Election Assistance Commission (June 2009), “The Impact of the National Voter Registration Act of 1993 on the Administration of Elections for Federal Office 2007-2008: A Report to the 111th Congress,” at <http://www.eac.gov/assets/1/AssetManager/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%202007-2008.pdf> (retrieved August 23, 2013).

¹⁵ See text of letter sent by Demos and Project Vote (May 14, 2009), at <http://www.demos.org/sites/default/files/publications/Notice%20of%20Intent%20to%20Sue%20State%20of%20California.pdf> (retrieved August 23, 2013).

¹⁶ Herman, J. and Hess, D. “California’s Failure to Comply with the Public Agency Registration Requirements of the NVRA,” (Project Vote, May 2009), at <http://www.projectvote.org/images/publications/State-Specific%20Documents/California/FINAL%20PV%20CA%20NVRA%205.7.09.pdf> (retrieved August 23, 2013).

¹⁷ California Secretary of State (July 2013), “Non-DMV Voter Registration Agencies: Yearly and Monthly Totals by County, 1995 to Present,” at <http://www.sos.ca.gov/elections/nvra/reports/sos-reports.htm> (retrieved August 23, 2013).

¹⁸ California Secretary of State (July 2013), “Non-DMV Voter Registration Agencies: Monthly Totals by County and Category, April 2008 to Present,” at <http://www.sos.ca.gov/elections/nvra/reports/sos-reports.htm> (retrieved August 23, 2013).

¹⁹ Id.

²⁰ Senate Bill 35, Chapter 505, Statutes of 2012, at http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-0050/sb_35_bill_20120924_chaptered.pdf (retrieved August 23, 2013).

²¹ California Elections Code §§ 2406 (a)(1) and (3).

- ²² California Elections Code §§ 2405 (a)(1) and (2).
- ²³ California Elections Code §§ 2402(a) and §2407.
- ²⁴ See California Secretary of State, “SB 35/NVRA Monthly Reports by County and Agency Office/Site,” at <http://www.sos.ca.gov/elections/nvra/reports/sb35-nvra-monthly-reports.htm> (retrieved August 23, 2013).
- ²⁵ Orange County Registrar of Voters, “NVRA Voter Registration Order Form,” at <http://www.ocvote.com/registration/nvra-registration-order-form/> (retrieved August 23, 2013).
- ²⁶ California Elections Code § 2408(a).
- ²⁷ California’s county welfare departments are organized into three consortia. Each consortium has its own website for Medi-Cal, CalWORKs, and CalFresh applications.
- ²⁸ California Elections Code §§ 2404(a)(1), 2406(a)(2), and 2405(a).
- ²⁹ California Elections Code § 2406(a)(5).
- ³⁰ California Elections Code § 2406(a)(4).
- ³¹ California Elections Code § 2403(b)(2).
- ³² California’s Health Benefit Exchange (Covered California) has estimated that 60 percent of applications will come through its online portal. See California Health Benefit Exchange Board meeting materials, Baker, J. and Tobin, C. (August 23, 2012), “California Health Benefit Exchange Service Center Recommendation,” at http://www.healthexchange.ca.gov/BoardMeetings/Documents/August_23_2012/X_CHBE-Presentation_ServiceCenterOptions_8-23-12.pdf (retrieved August 23, 2013).
- ³³ California Elections Code § 2197.
- ³⁴ See supra note 5.
- ³⁵ See National HBEX toolkit developed by ACLU Voting Rights Project, Demos, and Project Vote, at <http://www.aclusandiego.org/site/wp-content/uploads/2013/08/NATIONAL-HBEX-TOOLKIT.pdf> (retrieved August 23, 2013).
- ³⁶ California Elections Code § 2408(c).
- ³⁷ Based on analysis of U.S. Census Bureau, “Section 203 Determinations- Census 2010, Public Use Data,” at http://www.census.gov/rdo/data/voting_rights_determination_file.html (retrieved August 23, 2013).
- ³⁸ California Elections Code §2408(d).
- ³⁹ California Bureau of State Audits (August 2013), “Office of the Secretary of State: It Must Do More to Ensure Funds Provided Under the Federal Help America Vote Act Are Spent Effectively,” at <http://bsa.ca.gov/pdfs/reports/2012-112.pdf> (retrieved August 23, 2013).
- ⁴⁰ 42 U.S.C. § 1973gg-9.
- ⁴¹ U.S. Department of Justice, “The National Voter Registration Act of 1993, Questions and Answers,” at http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php (retrieved August 23, 2013).
- ⁴² U.S. Department of Justice, “Voting Section Litigation,” at <http://www.justice.gov/crt/about/vot/litigation/caselist.php> (retrieved August 23, 2013).
- ⁴³ 42 U.S.C. § 1973gg-7.
- ⁴⁴ 42 U.S.C. § 1973gg-7 and 42 U.S.C. §15322.